



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2982



Mr. Thomas Rosse
75 Barretts Mill Road
Concord, MA 01742

LETTER OF DEFICIENCY

#SP-2002-22

November 6, 2002

RE: DES Wetlands File #2002-01298 Marcy Road, Madison

Dear Mr. Rosse

On October 25, 2002, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, identified as Madison Tax Map 22, Lot 5, Marcy Road, Madison, New Hampshire (the "Property"). The purpose of this site inspection was to determine compliance with RSA 483-B, The Comprehensive Shoreland Protection Act, as well as RSA 482-A and NH Code of Admin. Rules Wt 100-700. During the inspection the following deficiencies were noted:

1. A retaining wall has been constructed at or near the normal high water level ("reference line" of Silver Lake. It is the understanding of DES that there was a timber retaining wall in this area previously. DES has no record of a permit being issued for this construction/repair of the retaining wall.
2. A storage shed was observed within 10 feet of the reference line of Silver Lake.
3. The bank of the property between the house and the lake has been tiered with retaining walls

The retaining wall that has been constructed at or near the lake reference line is within NHDES Wetlands Bureau jurisdiction and therefore requires a permit. If the wall meets certain criteria, it may be able to receive an "after the fact" permit. The retaining walls that have been constructed above this one are not within NHDES Wetlands Bureau jurisdiction, however removal of the natural woodland buffer in order to construct retaining walls is not allowed under RSA 483-B.

In accordance with Shoreland Admin. Rule Env-Ws 1405, accessory structures of 150 square feet or less are required to be a minimum of 20 feet from the lake reference line.

In response, you are requested to take the following actions within 45 days of receipt of this Letter of Deficiency:

1. Submit an after the fact application (copy enclosed) to DES for the retaining wall adjacent to the lake. It is important to detail conditions prior to construction/repair of the retaining wall and after.
2. Submit information regarding the condition of the bank prior to construction of the tiered retaining walls.
3. Submit information demonstrating that the storage shed was in its present location prior to 11/26/96, the effective date of the Shoreland Admin. Rules, or move the storage shed to a location that meets the required 20-foot setback.

RSA 482-A, the New Hampshire Wetlands Law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit.

RSA 483-B, CSPA, was enacted to protect and preserve the shorelands of the State to maintain the integrity and exceptional quality of the State's public waters. RSA 483-B and Env-Ws 1400-1409 establishes minimum standards for the future subdivision, use, and development of the shorelands within 250 feet of the state's public waters.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Allyson Gourley, Shoreland Compliance Coordinator
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Enclosed, for your information, are copies of fact sheets explaining the Comprehensive Shoreland Protection Act, a copy of the Act, administrative rules Env-Ws 1400, and proper installation and maintenance of erosion control measures. Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Allyson Gourley at (603) 271-6876.

Sincerely,

COPY
Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL _____

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit
Mark Harbaugh, DES Enforcement Attorney
Madison Conservation Commission
Madison Board of Selectmen
David Killoy, USACOE